IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.M.No.15976-CII of 2004 and
F.A.O. No.3972 of 2004 (O.&M.)
Date of decision: 29.8.2006

Ram Pal and another.

..... Appellants

Versus

Dharamtwati and others.

..... Respondents

CORAM : Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Shailendra Jain, Advocate for the appellants.

....

Mahesh Grover,J.

The present appeal has been filed by the driver and the owner of the offending vehicle against award dated 4.9.2003 passed by the Presiding Officer, Motor Accident Claims Tribunal, Gurgaon (hereinafter described as `the Tribunal') in M.A.C.T. Petition Nos.132 of 14.12.2001 and 56 of 18.1.2002.

On 26.11.2001, an accident is alleged to have taken place involving vehicle (TATA 407) bearing registration no.HR47/ 3217 owned by the appellant and as a result of which one Natthi died on the spot while other persons travelling therein suffered grievous injuries. F.I.R.No.311 dated 27.11.2001 was registered at Police Station, Sohna qua this accident.

The Tribunal awarded a compensation of Rs.5,09,000/- on account of death of Natthi to the claimants in M.A.C.T.Petition No. 132 of

14.12.2001, whereas claimant-Naresh in M.A.C.T.Petition No.56 of 18.1.2002 was awarded a sum of Rs.8000/- on account of injuries suffered by him. While awarding the aforesaid compensation, the Tribunal directed that the Insurance Company would make the payment in the first instance, but it would be entitled to recover the same from the appellant. It is this directive which has been assailed by the appellant to say that he was not to be held liable because the persons travelling in the vehicle were not gratuitous passengers and were rather authorised representatives of the owner as the vehicle in question was carrying dowry articles and they had boarded it to safeguard those articles.

We have heard Shri Shailendra Jain and are unable to persuade ourselves to accept the contention of the appellant. The plea now sought to be raised by the appellant is not substantiated by any evidence on record, so much so, that even the name of the person, who is alleged to have taken the vehicle on hire for carrying the dowry articles was not mentioned. In view of this, it can safely be held that the vehicle was being used for carrying passengers in violation of the terms and conditions of the insurance policy. Therefore, in view of the provisions of Section 149 of the Motor Vehicles Act,1988, as also the law laid down by the Supreme Court in New India Assurance Co.Ltd. Versus Asha Rani, 2003 ACJ 1 (S.C.), we do not find any reason to interfere with the impugned award.

Moreover, there is delay of 216 days in filing the appeal and no sufficient cause has been shown for condonation thereof. In P.K.Ramchandran Versus State of Kerala and another, AIR 1998 S.C. 2276, their Lordships of the Supreme Court held that the Court cannot extend the limitation on equitable grounds.

Resultantly, the application for condonation of delay as well as the appeal are dismissed.

(Mahesh Grover)
Judge

August 29,2006
"SCM"

(Uma Nath Singh)
Judge